



GEORGIA M. PESTANA
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NEW YORK 10007

DARA L. WEISS
Senior Counsel
daweiss@law.nyc.gov
Phone: (212) 356-3517
Fax: (212) 356-1148

By ECF

January 7, 2022

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

In Re: *New York City Policing During Summer 2020 Demonstrations*,
No. 20 Civ. 8924 (CM) (GWG)
This filing is related to all cases

Your Honor:

I am a Senior Counsel assigned to represent Defendants in the above-referenced matters. Defendants write to respectfully request an extension of time to produce the requested aviation footage from January 7, 2022 to January 26, 2022. Defendants made a first production of the aviation footage to Plaintiffs today.

By Order dated December 16, 2021, Your Honor directed that defendants produce the aviation videos by January 7th. The Court also advised that it would not entertain an extension of this deadline in the absence of affidavits from persons with personal knowledge of the technological impediments to meeting the deadline or by agreement of the parties. Plaintiffs' counsel would not consent to a requested extension. As such, in furtherance of this application, attached is a sworn declaration signed by a member of the New York City Police Department's ("NYPD") Lower Manhattan Security Initiative ("LMSI") whose responsibilities include fulfilling requests for the type of videos at issue here.

As we conferred further with NYPD to obtain the aviation footage, the complexity of the process to produce it became clearer. NYPD preserved aviation footage of days related to the protests that are the subject of these lawsuits. What was preserved was not only the footage for protest events, but *all* video from every helicopter for each day of preservation. This includes videos of other unrelated law enforcement efforts, including, but not limited to, counterterrorism activities. The raw footage currently under review is approximately one terabyte, and not four as was previously estimated. Because of the potentially sensitive nature of the raw footage, access to it is limited and it cannot be sent off-site to an outside vendor for review. In order to produce responsive footage to the plaintiffs, NYPD must first manually review the entirety of the raw footage and identify responsive portions by time stamps. For this production, the review can

only be conducted by a limited number of attorneys from NYPD's Legal Bureau who have access to a third-party vendor's proprietary review platform. The time stamps are then provided to this third-party vendor and LMSI (a unit of NYPD's Counterterrorism Bureau) to mark and cull those specific videos and upload them to NYPD. Thereafter, NYPD can transmit them to the Law Department for production to Plaintiff. This process takes a significant amount of time. As such, while defendants made the first production of aviation videos today, they cannot complete production by the current court-ordered deadline. The requested time will allow NYPD Legal to review the raw footage, the third-party vendor and LMSI to cull and upload the responsive footage (which should take about two weeks) and for NYPD to transmit it to Law Department to produce to plaintiffs. We anticipate making productions on a rolling basis until this process is completed.

Accordingly, defendants respectfully request that the Court grant their request to extend the time to produce the aviation footage to January 26, 2022.

Thank you for your consideration herein.

Respectfully submitted,

Dara L. Weiss s/

Dara Weiss
Senior Counsel
Special Federal Litigation Division

cc: ALL COUNSEL (via ECF only)